RICHARD A. LEVINE, ESQ. [SBN: 91671]
ZACHERY A. LOPES, ESQ. [SBN: 284394]
BRIAN P. ROSS, ESQ. [SBN 23991]
RAINS LUCIA STERN ST. PHALLE & SILVER, PC
1428 2nd Street, Suite 200
Santa Monica, CA 90401
Telephone: 310.393.1486
Facsimile: 310.395.5801
Email: rlevine@rlslawyers.com

Attorneys for Petitioner
LOS ANGELES POLICE PROTECTIVE LEAGUE

FILED
Superior Court of California
County of Los Angeles
DEC 31 2018
Sherri R. Carter, Executive Officer/Clerk
By: Carmen Del Rio, Deputy
CARMEN DEL RIO

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF LOS ANGELES

CASE NO. 18STCP03495

LOS ANGELES POLICE PROTECTIVE LEAGUE

Petitioner,

v.

CITY OF LOS ANGELES, a municipal corporation; MICHEL R. MOORE, Chief of Police, City of Los Angeles, and DOES 1 through 20, inclusive,

Respondents

APPLICATION FOR ALTERNATIVE WRIT OF MANDATE AND REQUEST FOR STAY BY PETITIONER LOS ANGELES POLICE PROTECTIVE LEAGUE; MEMORANDUM OF POINTS AND AUTHORITIES, DECLARATIONS OF RICHARD A. LEVINE ESQ. AND CRAIG LALLY AND EXHIBITS THERETO; DECLARATION OF RICHARD A. LEVINE ESQ. RE: NOTICE OF HEARING; PROOF OF SERVICE

DATE: DECEMBER 31, 2018
TIME: 8:30 A.M.
DEPT.: _____ (WRITS AND RECEIVERS)

TABLE OF CONTENTS

01/02/19

TABLE OF AUTHORITIES

Cases

01/02/19

01/02/19

Statutes

Other Authorities

Constitutional Provisions

01/02/19

I.
INTRODUCTION

Petitioner Los Angeles Police Protective League ("League") seeks an Alternative Writ of Mandate directing Respondents City of Los Angeles ("City") and Police Chief Michel R. Moore of the Los Angeles Police Department and their agents, employees and representatives to refrain from retroactively enforcing or taking any steps to retroactively enforce California Senate Bill 1421, enacted as Chapter 988 of the 2017-2018 Regular Session ("SB 1421"), effective January 1, 2019, which amends Penal Code sections 832.7 and 832.8 respecting the confidentiality of peace officer personnel records. Petitioner also requests that the Court issue an immediate order staying or enjoining any retroactive enforcement of SB 1421 by Respondents during the pendency of these proceedings.

SB 1421 amends Penal Code Section 832.7 by eliminating the long-established statutory confidentiality of specified peace officer and custodial officer personnel records, and information contained in such records. SB 1421 mandates that these records and information maintained by public agencies shall be subject to disclosure and otherwise available for public inspection pursuant to the California Public Records Act ("CPRA"), Government Code Section 6250 et seq.

Notwithstanding the absence of any express retroactivity provision, Respondents have taken the position that absent a stay or other ruling by the Courts, SB 1421 must be applied and enforced as to personnel records and information reflecting specified peace officer conduct occurring prior to January 1, 2019.(Exhibit C) That information, however, is confidential as a matter of law and not otherwise subject to disclosure, except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code. Existing law affords peace officers a confidentiality privilege to the information contained in their personnel files. This is a privacy right established

01/02/19

by statute, affirmed by the California Supreme Court, and acknowledged by the Constitution. SB 1421's changes, however, must operate prospectively only. Peace officers retain their privacy right to personnel file information respecting incidents or conduct which occurred prior to January 1, 2019.

Pursuant to California Constitution, Article I, Section 3, subdivision (b), paragraph (3), any broad construction of statutes pertaining to the right of access to information of public agencies (such as the CPRA) does *not supersede the construction of statutes that protect the constitutional right of privacy, including any statutory procedures governing discovery or disclosure of information concerning the official performance or professional qualifications of a peace officer.*

Furthermore, it is well-settled that a statutory enactment cannot operate retroactively unless it contains an express retroactivity provision or it is "very clear" from other sources that the Legislature "must have intended a retroactive application." (*Evangelatos v. Superior Court* (1988) 44 Cal.3d 1188, 1209.) SB 1421 does not contain an express retroactivity provision, and the relevant extrinsic evidence contains no indication that the Legislature intended a retroactive application of the new law.

Due to the impending massive influx of CPRA requests to Respondents effective January 1, 2019 seeking peace officer personnel records under SB 1421, a regularly notice hearing on a peremptory writ of mandate could not provide timely relief to Petitioner's represented peace officers whose statutory and constitutional privacy rights are imminently jeopardized. The issuance of an Alternative Writ of Mandate is necessary to *immediately* direct Respondents to refrain from unlawfully releasing confidential peace officer information, or to show cause why they have not done so. (Code of Civil Procedure Section 1087)

01/02/19

Furthermore, this court should issue a Stay Order to enjoin any retroactive operation of SB 1421 pending the hearing on the Alternative Writ of Mandate, and until this Court otherwise directs. Petitioner is likely to succeed on the merits of this action. SB 1421's amendments do not operate retroactively to divest Petitioner's members of their prior-acquired privacy right to maintain the confidentiality of their personnel file information reflecting conduct that occurred prior to January 1, 2019. Respondents' stated intent to apply the new law retroactively is unlawful.

Moreover, absent an immediate stay enjoining Respondents' unlawful retroactive application of SB 1421's amendments, Petitioner's members will suffer irreparable harm to their statutory and constitutional privacy rights that far outweighs any detriment alleged by Respondents.

II.
SENATE BILL 1421 CHANGES EXISTING PRIVACY RIGHTS OF PEACE OFFICERS

Existing law identifies peace officer personnel records, and information obtained from those records, as confidential and exempt from disclosure absent compliance with the statutory *Pitchess* process.[1] (Pen. Code § 832.7(a).) As currently defined, confidential peace officer "personnel records" include "any file maintained under that individual's name by his or her employing agency and containing records relating to" among other things "[e]mployee advancement, appraisal, or discipline," and "[c]omplaints, or investigations of complaints, concerning an event or transaction in which he or she participated, or which he or she

[1] The "*Pitchess* process" refers to the statutory in-camera disclosure procedure for relevant personnel records during civil and criminal proceedings enacted in response to *Pitchess v. Superior Court* (1974) 11 Cal.3d 531. (Evid. Code §§ 1043, 1046, 1047.)

01/02/19

perceived, and pertaining to the manner in which he or she performed his or her duties." (Pen. Code § 832.8(d), (e).)

This is a confidentiality privilege, or right, possessed by the peace officer (and his or her employer) which forbids public agencies from disclosing such information in response to a CPRA request. (*City of Hemet v. Superior Court* (1995) 37 Cal.App.4th 1411, 1430 ["[T]he protection of Penal Code section 832.7 is illusory unless that statute is incorporated into CPRA..."].)

The California Supreme Court has recognized that the statutory privilege affords peace officers "a strong privacy interest in [their] personnel records." (*People v. Mooc* (2001) 26 Cal.4th 1216, 1227; p. 1220 [A peace officer has a "legitimate expectation of privacy in his or her personnel records"]; *Copley Press, Inc. v. Superior Court* (2006) 39 Cal.4th 1272, 1300 ["One of Penal Code section 832.7's purposes is 'to protect the right of privacy of peace officers.' citations omitted"]; *City of Santa Cruz v. Superior Court* (1989) 49 Cal.3d 74, 83-84.) Maintaining the confidentiality of such information encourages public agencies to retain these records and encourages the cooperation and candor of peace officers during internal investigations. (*Davis v. City of Sacramento* (1994) 24 Cal.App.4th 393, 401, fn. 1; *City of Hemet, supra,* 37 Cal.App.4th at p. 1430.)

This privacy interest is expressly enumerated in the California Constitution. Article I, Section 3 provides generally that legal authority which furthers the people's right of access to public records be "broadly construed," while authority that "limits" the right of access be "narrowly construed." (Cal. Const., art. I, § 3, subd. (b), pars. (1), (2).) This mandate, however, *specifically excludes provisions which protect peace officers' privacy interest in the confidentiality of their personnel file information.* (Cal. Const., art. I, § 3, subd. (b), par. (3); *Commission on Peace Officer Standards & Training v. Superior Court* (2007) 42 Cal.4th 278,

01/02/19

288 ["The Constitution [] recognizes the right to privacy and specifically acknowledges the statutory procedures that protect the privacy of peace officers"].)

SB 1421's amendments to Penal Code sections 832.7 and 832.8 modify this existing privacy right by identifying four particular categories of peace officer personnel file "records"[2] as non-confidential and therefore subject to disclosure: (1) records relating to incidents involving the discharge of a firearm at a person; (2) records relating to incidents involving use of force resulting in death or great bodily injury; (3) records relating to sustained findings by a law enforcement agency or "oversight agency" of "sexual assault involving a member of the public", and; (4) records relating to sustained findings by a law enforcement agency or "oversight agency" of specified instances of dishonesty. (Pet. ¶ 8, Exh. A, Sec. 2, Pen. Code § 832.7(b)(1)-(2).)

III.
SENATE BILL 1421'S AMENDMENTS OPERATE PROSPECTIVELY ONLY AND CANNOT BE APPLIED OR ENFORCED AS TO PEACE OFFICER PERSONNEL RECORDS ARISING OUT OF INCIDENTS OR CONDUCT PRIOR TO 1/1/19

"A retrospective law is one which affects rights, obligations, acts, transactions and conditions which are performed or exist prior to the adoption of the statute." (*Aetna Cas. & Sur. Co. v. Industrial Acc. Commission* (1947) 30 Cal.2d 388, 391.) "[E]very statute, which takes away or impairs vested rights acquired under existing laws, or creates a new obligation, imposes a new duty, or attaches a new disability, in respect to transactions or considerations already past, must be deemed retrospective." (*Myers v. Philip Morris Companies, Inc.* (2002) 28 Cal. 4th 828, 839.) Statutes are not to be given a retrospective operation unless it is clear that such was the legislative intent. (*Aetna Cas.* 30 Cal 2d at 393) SB 1421's amendments to

---

[2] "Records" is defined very expansively to include essentially the entirety of an investigation file, including all documents from a subsequent administrative appeal process and anything presented by an employer to a district attorney for criminal investigation. (Pet. ¶ 8, Exh. A, Sec. 2; Pen. Code § 832.7(b)(1)(C)(2).)

01/02/19

remove the confidentiality of conduct occurring prior to its effective date would constitute a retroactive application of its provisions.

Prior to the effective operation of SB 1421's amendments, peace officers were afforded the right to confidentiality in *all* of their personnel file information – a privacy right established by statute, affirmed by this Court, and acknowledged by the Constitution. (Pen. Code § 832.7(a); *Mooc, supra,* 26 Cal.4th at p. 1227; Cal. Const., art. I, § 3, subd. (b), par. (3).) *This is an informational privilege* held by the individual peace officer – not merely a privilege allowing a public agency to withhold the production of physical documents. The privacy right extends beyond the actual "files" or "records" maintained by public agencies to encompass the *information* contained in or obtained from those documents. (Pen. Code § 832.7(a) ["Peace officer.. personnel records ... *or information obtained from these records*, are confidential…", emphasis added]) Cal. Const. art. I, § 3, subd. (b), par. (3) [Right to privacy acknowledged by the Constitution includes the "statutory procedures governing discovery or disclosure *of information* concerning the official performance or professional qualifications of a peace officer" emphasis added]; *Hackett v. Superior Court* (1993) 13 Cal.App.4th 96, 98-99 ["[T]here is *nothing* in the statutory scheme or its history suggesting a legislative intent to exclude from the privilege[] information which happens to be obtainable elsewhere." Original emphasis]; *City of San Diego v. Superior Court* (1981) 136 Cal.App.3d 236, 239 ["There would be no purpose to protecting such information in the personnel records if it could be obtained by the simple expedient of asking the officers for their disciplinary history orally"].)

Accordingly, disclosing records reflecting incidents or conduct occurring prior to January 1, 2019 would constitute a retroactive application of SB 1421's amendments because it would violate the right to privacy of that information *already acquired* under existing law.

01/30/19

(*Aetna Cas. & Sur. Co., supra,* 30 Cal.2d at p. 391 ["A retrospective law is one which affects rights… [which] exist prior to the adoption of the statute"].)

SB 1421's amendments cannot be applied retroactively, however, because the Legislature did not intend such an operation. "Application of a statute to destroy interests which matured prior to its enactment is generally disfavored." (*Balen v. Peralta Junior Col. Dist.* (1974) 11 Cal.3d 821, 830.) Statutes are presumed to "operate prospectively only," because "the first rule of [statutory] construction [states] that legislation must be considered as addressed to the future, not to the past…." (*Myers, supra,* 28 Cal.4th at p. 840.) "[A] retrospective operation will not be given to a statute which interferes with antecedent rights ... unless such be '*the unequivocal and inflexible import of the terms, and the manifest intention of the legislature.*'" (*Id.*, emphasis added; also see *Evangelatos, supra,* 44 Cal.3d at p. 1209 ["[I]n the absence of an express retroactivity provision, a statute will not be applied retroactively unless it is very clear from extrinsic sources that the Legislature [] must have intended a retroactive application"].) "Something more than a desirable social objective served by the legislation is [] required if we are to infer a legislative intent of retroactivity." (*Indus. Indem. Co. v. Workers' Comp. Appeals Bd.* (1978) 85 Cal.App.3d 1028, 1032.)

"First, a court should examine the actual language of the statute" to determine if a retroactive intent exists because "it is the language of the statute itself that has successfully braved the legislative gauntlet." (*Halbert's Lumber, Inc. v. Lucky Stores, Inc.* (1992) 6 Cal.App.4th 1233, 1238. SB 1421's terms contain no express statement of retroactive application. (Pet. ¶ 8, Exh. A, Sec. 2.) The enactment contains no legislative findings directing a retroactive application of the new law or asserting that SB 1421 is intended to "clarify" the

01/02/19

existing operation of Penal Code section 832.7.[3] (Pet. ¶ 8, Exh. A, Sec. 1.) The language of SB 1421 is not ambiguous on this point. (*Delaney v. Superior Court* (1990) 50 Cal.3d 785, 798 ["If the language is clear and unambiguous there is no need for construction, nor is it necessary to resort to indicia of the intent of the Legislature..."].) Had the Legislature intended SB 1421's amendments to apply retroactively to rescind already acquired privacy rights it would have expressly stated as such. (*Aetna Cas. & Sur. Co., supra,* 30 Cal.2d at p. 396 ["[I]t must be assumed that the Legislature was acquainted with the settled rules of statutory interpretation, and that it would have expressly provided for retrospective operation of the amendment if it had so intended"].) Likewise, the relevant legislative history of SB 1421 contains no expression of retroactive intent. (Leg history.)

[4] While the legislative history contains ambiguous references to SB 1421's "effect" as being to "open [] police officer personnel records in very limited circumstances," such language does not manifestly state an intent to unwind previously-acquired privacy rights for incidents or conduct that has already occurred. (Bill analysis; *Myers, supra,* 28 Cal.4th at p. 840.) Rather, this simply states an intent to prospectively open specified peace officer misconduct for public disclosure occurring after SB 1421's operative date. Interpreting this stated "effect" any other way would ignore the fact that peace officers had an informational privilege, not a document production privilege, for the specified categories of incidents prior to January 1, 2019. (*Arthur Andersen v. Superior Court* (1998) 67 Cal.App.4th 1481, 1500 ["The

---

[3] To the contrary, the legislative history repeatedly affirms that "existing law" deems all peace officer personnel file material is confidential.

[4] The only mention of a potential retroactive application comes from a lobbying organization's *opposition* to the bill. (Senate Com. on Public Safety Analysis of SB 1421 as amended April 2, 2018, p. 16 ["[Our] reading of Senate Bill 1421 is that making the records of an officer's lawful and in policy conduct is retroactive in its impact"].) This is irrelevant, however, because it does not provide any insight into the Legislature's collective intent in enacting SB 1421 – lobbyists' letters "do not aid in [the] interpretation of the statute" because they "merely state the individual opinions of their authors." (*Quintano v. Mercury Casualty Co.* (1995) 11 Cal.4th 1049, 1066, fn. 5.)

01/02/19

Legislature is presumed to know existing law when it enacts a new statute..."].) Either way, "the wisest course is to rely on legislative history only when that history itself is unambiguous." (*J.A. Jones Construction Co. v. Superior Court* (1994) 27 Cal.App.4th 1568, 1578.) And, "*a statute that is ambiguous with respect to retroactive application is construed ... to be unambiguously prospective.*" (*Myers, supra,* 28 Cal.4th at p. 841, emphasis added.)

The rule is clear: "a statute may be applied retroactively only if it contains express language of retroactivity or if other sources provide a clear and unavoidable implication that the Legislature intended retroactive application. [Citation.]" (*Bullard v. California State Automobile Assn.* (2005) 129 Cal.App.4th 211, 217, emphasis added.) SB 1421 contains no "express language of retroactivity" and nothing in the relevant legislative history indicates even an implied retroactive intent. SB 1421's amendments cannot lawfully be applied to rescind previously-acquired privacy rights to the confidentiality of information concerning incidents or conduct occurring prior to the statute's effective date. Accordingly, Respondents' stated intent to so apply SB 1421's amendments retroactively is unlawful.

IV.
THE ISSUANCE OF AN ALTERNATIVE WRIT OF MANDATE IS APPROPRIATE WHERE RESPONDENTS ANTICIPATE A MASSIVE INFLUX OF PUBLIC RECORDS REQUESTS UNDER SB 1421 ON JANUARY 1, 2019

Mandamus is proper to compel a public agency's performance of acts specifically prescribed by law. (Code Civ. Proc. § 1085.) Issuance of a writ of mandate is dependent upon two basic requirements: 1) a clear, present and ministerial duty on the part of the respondent; and 2) a clear, present and beneficial right in the petitioner to the performance of that duty. (*People ex rel. Younger v. County of El Dorado* (1971) 5 Cal.3d 480, 491.)

A "ministerial duty" is one required to be performed "in a prescribed manner in obedience to the mandate of legal authority and without regard to [] judgment or opinion

01/02/19

concerning such act's propriety or impropriety, when a given state of facts exists." (*Transdyn/Cresci v. City and Co. of San Francisco* (1999) 72 Cal.App.4th 746, 752.) Respondent has a ministerial duty to refrain from unlawfully releasing confidential information, properly enforced by mandamus. (Code Civ. Proc. § 1085; *Marken v. Santa Monica-Malibu Unified School Dist.* (2012) 202 Cal.App.4th 1250, 1266-1267 [Mandamus is appropriate to "prevent a public agency from acting in an unlawful manner by releasing information the disclosure of which is prohibited by law"].)

SB 1421's amendments are effective on January 1, 2019. Respondents anticipate a "massive influx" of CPRA requests immediately on and after that date. (Pet. ¶ 10, Exh. B ["[T]he LAPD has been preparing for the massive influx in historical records requests it anticipates starting January 1, 2019"].) Once such requests are received, Respondents are obligated to respond within a very short statutory time-frame, leaving very little time to challenge an agency's decision to release this information. (Gov. Code § 6253(c) ["Each agency, upon a request for a copy of records, shall, *within 10 days from receipt of the request*, determine whether the request, in whole or in part, seeks copies of disclosable public records..."].

Respondents have advised the Petitioner League that it intends to apply and enforce SB 1421 retroactively as to personnel records and information as to specified peace officer conduct occurring prior to January 1, 2019. That information, however, is confidential as a matter of law under Penal Code Sections 832.7-832.8 and not otherwise subject to disclosure, except by discovery pursuant to Sections 1043 and 1046 of the Evidence Code.

Due to the impending massive influx of CPRA requests to Respondents effective January 1, 2019 seeking peace officer personnel records under SB 1421, a regularly notice hearing on a peremptory writ of mandate could not provide timely relief to Petitioner's

01/02/19

represented peace officers whose statutory and constitutional privacy rights are imminently jeopardized. The issuance of an Alternative Writ of Mandate is necessary to *immediately* direct Respondents to refrain from unlawfully releasing confidential peace officer information, or to show cause why they have not done so. (Code of Civil Procedure Section 1087)

Courts will issue an alternative writ when the petition sufficiently alleges a cause of action, which, if proven, could lead to the issuance of a final or peremptory writ. *Save Oxnard Shores v. California Coastal Commission* (1986) 179 Cal App 3d 140, 149.

In this case, Respondents have a clear, present and ministerial duty not to retroactively enforce SB 1421 in the absence of any express legislative direction for retroactivity in Senate Bill 1421, and in contravention of the well-established presumption against retroactive application of statutes in the absence of such a clearly declared intention by the legislature. Furthermore, Petitioner recognized employee organization has a clear, present and beneficial interest on behalf of its represented peace officers to protect their right to privacy to confidential personnel record information *already acquired* under existing law. (See *Long Beach City Employees Assn. v. City of Long Beach* (1986) 41 Cal.3d 937, 941, fn. 3 [employee organization has standing to assert the privacy rights of its members].)

V.
THIS COURT SHOULD ISSUE A STAY ORDER TO ENJOIN ANY RETROACTIVE OPERATION OF SB 1421 UNTIL THIS PETITION HAS BEEN ADJUDICATED

A Request for Stay of an agency decision in a traditional mandamus case is governed by principles for injunctive relief. (Local Rule 3.231(e).) Preliminary injunctive relief is appropriate to maintain the status quo pending a final determination of the merits of an action, by restraining the commission of a threatened act in violation of the petitioner's rights or to prevent great or irreparable injury. (Code Civ. Proc. § 526(a)(1)-(3); *Continental Baking Co. v. Katz* (1986) 68 Cal.2d 512, 528.) This court has the authority to immediately stay Respondent's

01/02/19

threatened release of confidential information pursuant to an unlawful application of SB 1421's amendments. *Startrack, Inc. v. County of Los Angeles* (1976) 65 Cal.App.3d 451, 457 ["Injunctive relief may be granted against illegal enforcement of valid ordinances.]

Issuance of a preliminary injunction depends on two interrelated factors: (1) the likelihood that the plaintiff will succeed on the merits of his claim at trial, and (2) the harm that plaintiff is likely to suffer if preliminary injunctive relief does not issue, balanced against the harm that the defendant is likely to suffer if it does issue. (*Cohen v. Bd. of Supervisors* (1985) 40 Cal.3d 277, 286.)

As discussed in sections II and III above, Petitioner is likely to succeed on the merits of this action. SB 1421's amendments do not operate retroactively to divest Petitioner's members of their prior-acquired privacy right to maintain the confidentiality of their personnel file information reflecting conduct that occurred prior to January 1, 2019. Respondents' stated intent to apply the new law retroactively is unlawful.

Moreover, absent an immediate stay enjoining Respondents' retroactive application of SB 1421's amendments, Petitioner's members will suffer irreparable harm that far outweighs any detriment imposed on Respondents. (*Novar Corp. v. Bureau of Collection & Investigative Services* (1984) 160 Cal.App.3d 1, 5 ["[I]t is well settled that where the enforcement of a statute may cause irreparable injury, the injured party may seek to enjoin its enforcement"].)

Respondents' unlawful application of SB 1421's amendments will cause substantial irreparable harm to Petitioner's members. There is no adequate legal remedy to compensate peace officers for the unlawful disclosure of their confidential personnel file information. The damage caused by unlawful disclosure of confidential information is immediate – the *mere disclosure* of that information to unauthorized individuals constitutes the harm suffered. Once such information is in the public domain, there is no practical way to unwind that harm, and

01/02/19

certainly not by way of an action for money damages. Indeed, courts have held specifically that the loss of privacy in peace officer personnel file information constitutes irreparable harm, and separately that there is no action for damages available for such a violation. *Rosales v. City of Los Angeles* (2000) 82 Cal.App.4th 419, 427-428 ["violation of the statutory procedures for disclosure of police personnel records does not give rise to a private right of action for damages"].)

Respondents' intention to retroactively apply SB 1421's amendments must be enjoined/stayed promptly. SB 1421's amendments go into effect on January 1, 2019. Respondents anticipate a "massive influx" of CPRA requests immediately on and after that date. (Pet. ¶ 10, Exh. B) Petitioner is not be required to wait for a CPRA request before seeking a stay or injunctive relief here – it is appropriate for Petitioner to seek immediate injunctive relief against the threatened infringement of its members' rights. (*Maria P. v. Riles* (1987) 43 Cal.3d 1281, 1292 [threatened enforcement of state statute by school district sufficient for enjoining implementation, citing *Cohen v. Bd. of Supervisors* (1985) 40 Cal.3d 277, injunctive relief filed to enjoin enforcement of city ordinance]; *Costa Mesa City Employees' Assn. v. City of Costa Mesa* (2012) 209 Cal.App.4th 298, 305 [Petitioner "may seek injunctive relief against the *threatened infringement* of their rights", original emphasis].)

Any harm suffered by enjoining a retroactive application of Senate Bill 1421's amendments is slight. Because the identified categories of personnel file information have been deemed confidential and withheld from public disclosure for over 30 years, waiting until the completion of these proceedings will not cause any undue hardship on the Respondents or the public. In contrast, significant harm will result to innumerable peace officers from the disclosure of confidential personnel file information reflecting conduct occurring prior to January 1, 2019.

01/02/19

VI.
CONCLUSION

Petitioner respectfully requests that this Court issue an Alternative Writ of Mandate and immediate Stay Order of any retroactive implementation of SB 1421's amendments or otherwise enjoining Respondents from applying Senate Bill 1421's amendments retroactively, and grant the relief sought by the Petition such that peace officers maintain their right to the confidentiality of their personnel file information reflecting incidents or conduct occurring before January 1, 2019.

RAINS LUCIA STERN
ST. PHALLE & SILVER, PC

Dated: 12/26, 2018

Richard A. Levine Esq.
Attorneys for Petitioner
LOS ANGELES POLICE PROTECTIVE LEAGUE

01/02/19